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# Transcript of Clifford E. Stoops, II

**Date:** April 27, 2021

**Case:** UBS Securities LLC, et al. -v- Highland Capital Management, L.P.

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## Transcript of Clifford E. Stoops, II

1 (1 to 4)

Conducted on April 27, 2021

1 IN THE UNITED STATES BANKRUPTCY COURT  
2 FOR THE NORTHERN DISTRICT OF TEXAS  
3 DALLAS DIVISION

4 -----x

5 In re : Chapter 11  
6 HIGHLAND CAPITAL : Case No. 19-34054-SGJ11  
7 MANAGEMENT, L.P., :  
8 Debtor. :  
9 -----x

10 UBS SECURITIES LLC AND : Adversary Proceeding  
11 UBS AG LONDON BRANCH : No. 21-03020-SGJ  
12 Plaintiffs, :  
13 v. :  
14 HIGHLAND CAPITAL :  
15 MANAGEMENT, L.P., :  
16 Defendant. :  
17 -----x

18 VIDEOTAPED DEPOSITION OF CLIFFORD E. STOOPS, II  
19 Conducted Virtually  
20 Tuesday, April 27, 2021  
21 10:14 a.m. EDT  
22 Job No.: 368733  
23 Pages: 1 - 83  
24 Reported by: Monique Vouthouris, CCR, RPR, CRR

1 A P P E A R A N C E S  
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		5	
			1 access them on breaks. But if Mr. Thornton is in the
			2 breakout room, that's why he's -- the audio is coming
			3 from Mr. Thornton's end. That's why the witness can't
			4 hear us.
			5 MR. CLUBOK: Yeah, I did the same thing by
			6 mistake, too, but I came back. Someone needs to tell
			7 Bob probably he needs to leave the breakout room and
			8 return to -- uh-oh, we lost --
			9 THE TECHNICIAN: It's because he joined as
			10 well.
			11 MR. CLUBOK: Okay. Can someone join and
			12 tell them they need to just click on "leave the
			13 breakout room" and come back to the meeting.
			14 THE COURT REPORTER: Let's go off the
			15 record.
			16 THE VIDEOGRAPHER: Sure. We are going off
			17 the record. The time is 10:15 a.m.
			18 (Recess 10:15 a.m. - 10:17 a.m.)
			19 THE VIDEOGRAPHER: All right. Would all
			20 parties present in this videoconference please voice
			21 identify themselves and state whom they represent.
			22 MS. McLAUGHLIN: My name is Shannon
			23 McLaughlin, I'm with Latham & Watkins LLP, and I'm
			24 here today with Sarah Tomkowiak and Andrew Clubok. We
			25 represent UBS Securities and UBS AG London Branch.
		6	
			1 MR. FEINSTEIN: My name is Robert Feinstein,
			2 Pachulski Stang Ziehl & Jones, LLP. We are counsel
			3 for the Debtor and the Defendant in this adversary,
			4 Highland Capital Management, L.P., and with me is my
			5 colleague Gregory Demo.
			6 MR. THORNTON: And I'm Robert Thornton.
			7 I'll be here as a representative of the witness,
			8 Clifford Stoops.
			9 THE VIDEOGRAPHER: All right. The court
			10 reporter today is Monique Vouthouris on behalf of
			11 Planet Depos. Would the reporter please swear in the
			12 witness.
			13 CLIFFORD E. STOOPS, II
			14 being first duly sworn or affirmed by the Notary,
			15 testifies as follows:
			16 EXAMINATION
			17 BY MS. McLAUGHLIN:
			18 Q Good morning, Mr. Stoops. Can you still
			19 hear me okay?
			20 A Yes.
			21 Q Perfect. Now, prior to today you and I have
			22 never spoken. Is that right?
			23 A Correct.
			24 Q And while we're doing this virtually, I'm
			25 going to do my best to speak loudly, but please let me

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	9		11
1 know if at any point you can't hear me.		1 Q At the time that you were employed at	
2 Are you aware of anything today that would		2 Highland, were you also -- did you also have	
3 prevent you from testifying competently and		3 responsibilities with Highland CDO Opportunity Master	
4 truthfully?		4 Fund LP?	
5 A No.		5 A Yes.	
6 Q We're going to start with some brief		6 Q And you also had responsibilities with	
7 background about your employment history. Is it		7 NexPoint Real Estate Strategies Fund. Is that	
8 correct that you began working at Highland Financial		8 correct?	
9 Partners, L.P. in 2006?		9 A Yes.	
10 A Technically it was Highland Capital		10 Q Did you receive separate compensation for	
11 Management working on Highland Financial Partners.		11 your role with these various entities?	
12 Q Thank you.		12 A No.	
13 A So not an employee of Highland Financial		13 Q So your checks issued only from Highland	
14 Partners, but that was the fund and fund complex I was		14 Capital?	
15 working on as an employee of Highland Capital		15 A Yes.	
16 Management. But the date is correct.		16 Q If one of Highland's affiliated or managed	
17 Q Thank you. I appreciate that. Your work		17 funds had paid you directly, would you have considered	
18 with Highland Financial Partners, did that also		18 that to be unusual?	
19 involve work with Highland Financial Partners		19 A Yes.	
20 subsidiaries, such as Highland Special Opportunities		20 Q Since leaving Highland in April 2020, you've	
21 Holding Company, Highland CDO Holding Company and		21 worked at a publicly traded company. Is that right?	
22 Highland Financial Corp.?		22 A Yes.	
23 A Yes.		23 Q And your present employer is not managed by	
24 Q In 2012 is it correct that you moved to		24 Highland Capital. Is that true?	
25 Highland Capital Management, L.P. in a more general		25 A No, it is not. Yes, it's true.	
	10		12
1 sense?		1 Q Excellent. Thank you. Your present	
2 A Technically it was 2009, but in 2012 I		2 employer is not owned or controlled by Mr. Dondero?	
3 received a title change around that move.		3 A No.	
4 Q And did your title become chief accounting		4 Q Your present employer is also not owned or	
5 officer?		5 controlled by Mr. Ellington?	
6 A Yes.		6 A No.	
7 Q While you were at Highland Capital, you also		7 Q And since leaving Highland Capital in April	
8 had responsibilities with other funds that were		8 2020, you haven't had any communications with	
9 managed by Highland. Is that true?		9 Mr. Dondero or Mr. Ellington. Is that correct?	
10 A Yes.		10 A Correct. I have not had any communications	
11 Q Those responsibilities included with		11 with either.	
12 Highland Financial Partners and its subsidiaries?		12 Q We'll talk a little bit about Sentinel	
13 A Yes.		13 Reinsurance Limited now. Are you familiar with an	
14 Q And did you keep those responsibilities with		14 entity called Sentinel Reinsurance Limited?	
15 Highland Financial until the time you left Highland in		15 A Roughly.	
16 April 2020?		16 Q When did you --	
17 A Yes.		17 A On a limited basis.	
18 Q While an employee of Highland, were you also		18 Q When did you get this limited understanding	
19 involved with the Highland institutional funds as		19 of Sentinel?	
20 their head of accounting -- fund accounting? Excuse		20 A Generally I recall it being somewhere	
21 me.		21 around, my first introduction to it being around	
22 A And by "institutional," for clarification,		22 August of 2017.	
23 you're asking about the hedge funds, so to speak?		23 Q When -- in August of 2017, what did you	
24 Q Um-hmm, yes.		24 learn about Sentinel that caused you to become aware	
25 A Yes, yes, that's correct.		25 of it?	

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	13		15
1    A I was informed that Sentinel would be a 2 party to a transaction involving a legal insurance 3 policy and they would be the insurance provider for 4 this policy that was to be issued to Highland 5 Financial Partners and its subsidiaries and to CDO 6 Fund and its subsidiaries relating to an outstanding 7 legal matter.		1 are you referring to a litigation that UBS initiated 2 against Highland and some of its affiliated funds in 3 the New York State courts?	
8    Q And who did this conversation happen with? 9 Who informed you of this?		4    A I'm not sure of the venue being New York, 5 but, yes, generally yes to everything else.	
10   A I was informed by JP Sevilla and also 11 present was, I recall to some degree, Rick Swadley was 12 also present.		6    Q Do you recall that litigation starting in 7 approximately 2009?	
13   Q And how did this conversation come about? 14   A I don't recall the specifics, meaning I 15 don't think it was like a scheduled meeting. I think 16 it was an ad hoc meeting that occurred at some point 17 during the day in which JP came up and asked to speak 18 with me, and to some degree Rick got incorporated into 19 the conversation. And it occurred in a conference 20 room just off of where my groups operated.		8    A Yes. Yes. 9    Q And in August 2017 in your conversation with 10 Mr. Sevilla, is this the first time you had heard 11 about a legal liability insurance policy being brought 12 up?	
21   Q And so it was Mr. Sevilla that initiated the 22 conversation --		13   A Yes. To my recollection. If there are any 14 documents indicating otherwise, I'd love to see them. 15 But, yes, to my recollection, that was the first time 16 I had ever heard of it.	
23   A Yes. 24   Q Do you remember about how long this meeting 25 took place for?		17   Q Okay. And do you remember what 18 Mr. Sevilla's role was in 2017?	
1    A I thought it was around -- I recall it being 2 somewhere around like two hours. Several hours. 3    Q Several hours? 4    A Yes. 5    Q During that conversation what did 6 Mr. Sevilla inform you of? 7    A That in the matter relating to Highland 8 Financial Partners and CDO Fund and UBS, that we 9 collectively, meaning the Highland side, were nearing 10 an agreement or legal resolution that would involve a 11 large monetary payment in settlement for that legal 12 resolution. And I don't recall specifically if it was 13 a judgment or if it was a settlement or some 14 combination. 15    But I just recall specifically it was an air 16 -- had an air of finality to it, that it would bring 17 to close all of the outstanding legal matters and it 18 was a large -- a large number. And to effect that, we 19 would have to basically use the assets in both HFP and 20 its subsidiaries and the CDO Fund and its subsidiaries 21 to effectively pay for that insurance policy.	14	19   A Like formal -- like formal title, lawyer, 20 legal counsel. He might have been assistant general 21 counsel, AGC, something along those lines. But sort 22 of to break that down, he was an, you know, an active 23 lawyer, in-house legal counsel for Highland Capital. 24   Q And what about -- I think you had mentioned 25 Rick Swadley. Does that (inaudible) --	16
22   Q All right. There's a lot there, so we're 23 going to break it down into smaller pieces. 24   A Sure. 25   Q The legal action that you're talking about,		1    A Rick Swadley's role was I think director of 2 tax, tax compliance. 3    Q And during this conversation you mentioned 4 that they were discussing something with urgency or a 5 finality about it. Did you understand -- or what did 6 you understand to be the final piece or what was the 7 finality? 8    A Well, it was the -- the -- ultimately, it 9 would be the execution of that -- whatever legal 10 agreement, the settlement. I'll just -- for lack of a 11 better phrase or specificity here, let's assume it was 12 a settlement discussion. That was the end goal as 13 explained to me. And so the sense of urgency around 14 it was it was a large number and the two funds had 15 extremely illiquid assets that, you know, maybe for 16 whatever reason UBS wasn't interested in those, it 17 wanted cash on the barrel. 18    So to get the cash needed to get UBS to 19 sign, we had to translate those assets, you know, 20 somehow, for lack of a better -- translate those 21 assets into a cash equivalent that met the 22 expectations of UBS. And so the urgency was around 23 how do you do that. And that's what -- when it was 24 explained to us the need for the insurance policy, 25 that the insurance company would receive these assets	

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	17		19
1 and in return would issue this insurance policy 2 against which it agreed to pay any sort of final 3 settlement agreement, you know, presumably in cash, 4 directly to UBS.		1 correct? 2 A Yes. 3 Q And Mr. Sevilla began talking about this 4 transfer. What -- what assets did he want you to 5 transfer?	
5 And so the urgency was around, you know, 6 effecting the transfer of the assets to the insurance 7 company so they had them in hand and were willing to 8 issue the insurance policy for UBS to get comfortable 9 with it.		6 A All of them, all of them in HFP and all of 7 them in CDO Fund. 8 Q Did he also want you to transfer any assets 9 from Highland CDO Opportunity Master Fund?	
10 Q There's a lot there again, so we're going 11 to -- 12 A Sure.		10 A When I say CDO Fund, that's generally what 11 I'm referencing. CDO Fund complex had -- again, I 12 acknowledge, I think you're saying Highland CDO Holdco 13 under HFP, and it sounds very much like CDO Fund. But 14 when I say CDO Fund, I'm referencing the CDO 15 Opportunity Master Fund and its subsidiaries. So the 16 answer to your question is yes.	
13 Q -- try to get some of the smaller pieces. 14 You've mentioned that there were -- there 15 were going to be some asset transfers. Is that 16 correct?		17 Q Okay. I'm going to try to use HFP Funds and 18 CDO Funds to collectively mean what you just said, 19 Highland Financial and subsidiary -- Highland CDO 20 Master Fund and its subsidiaries.	
17 A Yes. 18 Q Why would Mr. Sevilla have approached you 19 about asset transfers?		21 A Understood. 22 Q Okay. And Mr. Sevilla asked you to transfer 23 the funds -- or transfer the assets from HFP Funds and 24 the CDO Funds to which entity?	
20 A In my position I was responsible for the 21 accounting, you know, the books and records, plus the 22 operations. And so given the sort of mixed bag of 23 assets, the transfer of the assets wouldn't be as 24 straightforward as, you know, one might presume, and 25 it would have been up to my team, my groups to sort of	18	25 A During that conversation it was just sort of	20
1 effect those transfers in their different capacities 2 or in their different, you know -- in their different 3 states in which they existed, you know, whether it be 4 an LP interest or cash or DTC-held securities, et 5 cetera. 6 Q You mentioned that you were responsible for 7 accounting. Which entity were you responsible for the 8 accounting of?		1 loosely described as Sentinel. In other words, we 2 would be transferring these assets from the two funds, 3 HFP and CDO Fund, to Sentinel. We didn't necessarily 4 get into the actual here's the name of the company, 5 here's the, you know, instructions, et cetera. We 6 discussed that later. But generally Sentinel, the 7 insurance company, who would be issuing the policy. 8 Q And how was that transaction supposed to 9 work?	
9 A So if you look at Highland as a whole, you 10 could separate it between two different groups. You 11 have Highland and related advisors, what we sort of 12 loosely called the management company. And then you 13 have the investment vehicles. Those are the vehicles 14 in which investors put their money and the assets are 15 managed. 16 I generally was responsible for the books 17 and records for most but not all of the investment 18 vehicles managed by Highland and several of its 19 advisors. I was not responsible for the accounting 20 for Highland as a management company, nor the 21 operations of Highland as a management company. 22 Q And in August 2017 when Mr. Sevilla 23 approached you, he was coming to you because you had 24 responsibility for the accounting of Highland 25 Financial Partners and its subsidiaries. Is that		10 A The transfer of the assets or the insurance 11 policy? 12 Q Do you have knowledge of both? 13 A I have knowledge of the transfer of assets. 14 The Sentinel policy I just have a very, very limited 15 knowledge of based on what was explained to me in that 16 conversation in the conference room. 17 Q What was explained to you in the conference 18 room about the insurance policy? We can start there. 19 A That we would -- that we were in discussions 20 with UBS at the time regarding a settlement or legal 21 resolution. It would involve a large monetary 22 payment. But for whatever reason, the assets held by 23 the two relevant funds wouldn't work in this due to 24 the illiquid nature, in their current form wouldn't 25 work due to the illiquid nature of the assets, so we	

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	21		23
1 had to come up with some way to monetize them, and we 2 didn't think we had time, and so this insurance policy 3 was the best solution.		1 deposition you're taking and the questions you're 2 asking.	
4 And the intent was to transfer the assets to 5 the insurance company Sentinel. Sentinel would then 6 under some sort of, you know, arrangement -- I 7 wouldn't really -- the transfer would be governed by 8 some arrangement, and then Sentinel would issue a 9 policy in the names of the two funds. And then when 10 this legal resolution was finalized, Sentinel would 11 pay up to a hundred million dollars to UBS with 12 respect to this legal resolution. That's my 13 understanding of the policy and kind of the way it 14 worked.		3 So to be clear, Highland is not going to 4 assert the attorney-client privilege to preclude 5 inquiry into the matters that I think are summarized 6 in paragraphs 5 through 11 of a motion that the 7 company recently filed in the bankruptcy to approve 8 its settlement with UBS outlining facts relevant to 9 the Sentinel insurance policy and so forth. That's at 10 docket number 2199. This is not a blanket waiver of 11 the privilege. It is transactional, if you will, as 12 to those transactions that are summarized in those 13 paragraphs, and that's the extent of the waiver and 14 non-assertion of the privilege. Thank you.	
15 And so then my part in it was my team, 16 various teams, actually both accounting and 17 operations, would facilitate the various transfers of 18 the different types of assets. And so during that 19 two-hour discussion -- I think it was during that 20 discussion, I seem to recall that -- we had a rough 21 list of the assets and we kind of walked through what 22 it would take to effect the transfer of each of the 23 assets. It wasn't -- the way you transfer one 24 wouldn't necessarily transfer all of them, so we had 25 to group them in different buckets and figure out the	22	15 MS. McLAUGHLIN: Thank you, Mr. Feinstein. 16 Could we please turn to the last page of 17 Exhibit 1.	
1 best way to transfer the assets.	22	18 BY MS. McLAUGHLIN: 19 Q Now, Mr. Stoops, do you see at the top here 20 where it lists Sentinel Reinsurance Limited as the 21 insurer signed by Andrew Dean?	
2 And so we spent a material amount of time in 3 that discussion covering that component of it and the 4 estimated amount of time it would take to potentially, 5 you know, finalize all the transfers.		22 A Yes. 23 Q And below that it lists insureds and then 24 has three entities all signed by Jim Dondero on behalf 25 of Highland CDO Opportunity Master Fund, L.P.,	
6 MS. McLAUGHLIN: And if we can put Exhibit 1 7 on the screen, please. 8 (Deposition Exhibit 1, Email October 26, 9 2017 from Isaac Leventon to Chris Dunn with 10 attachment, marked for identification.)		24 1 Highland CDO Holding Company and Highland Special 2 Opportunities Holdings Company. Do you see that as 3 well? 4 A Yes. 5 Q And are these the parties that you 6 understood to be -- excuse me. 7 Are these the entities that you understood 8 to be parties in the transaction Mr. Sevilla described 9 to you in August 2017?	
11 MS. McLAUGHLIN: Thank you. 12 Q Exhibit 1 is a 19-page document. It's an 13 email from Isaac Leventon dated October 26th, 2017, 14 attaching what's entitled a Legal Liability Insurance 15 Policy. Do you see the document on your screen, 16 Mr. Stoops?		10 A Yes. 11 Q Have you ever seen this policy at the time 12 you were discussing it with Mr. Sevilla? 13 A I don't recall it. I don't. But, again, if 14 you've got a document that indicates I did, I'd be 15 happy to see it. I don't recall specifically seeing 16 the policy, no. But I may have just passing in an 17 email, but I don't recall specifically seeing it, no.	
17 A Yes.		18 Q Do you now understand that this is the 19 policy Mr. Sevilla was referring to at that time? 20 A It -- yeah, I mean, it generally appears to 21 be and capture the salient terms that were sort of 22 discussed orally with me at the time, you know, in the 23 conference room, yes.	
18 MS. McLAUGHLIN: Can we please go to page 2. 19 MR. FEINSTEIN: Excuse me. Shannon, before 20 you pose the next question -- it's Robert Feinstein, 21 for the record, counsel for Highland. The -- 22 Mr. Leventon is an in-house lawyer. Mr. Sevilla is as 23 well. I thought this would be an appropriate point to 24 put on the record Highland's view as to the 25 applicability of the attorney-client privilege to the		24 Q And do you know who Andrew Dean is? 25 A No. That's -- no. To my knowledge, I have	

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25           **1 no previous experience with him in any capacity.**  
 2           MS. McLAUGHLIN: Can we please go one page  
 3 prior to this, to page 18.  
 4           Q It looks here towards the bottom of the page  
 5 do you see where it lists the indemnity limit of \$100  
 6 million?  
 7           A Yes.  
 8           Q Do you also see it lists a premium of \$25  
 9 million?  
 10          A Yes.  
 11          Q Now, do you know how either figure was  
 12 determined?  
 13          A No.  
 14          Q Do you know whether this premium was paid?  
 15          A No, I -- no. No. I was -- I think this was  
 16 kind of part of our understanding how the mechanics  
 17 would work on everything during the lengthy  
 18 discussion. But we really -- I don't recall  
 19 specifically getting into the premium aspect of it.  
 20 I -- I -- honestly, I don't recall the 25 million in  
 21 the original discussion. I don't know if it was  
 22 present, we just didn't really cover it, or if it  
 23 developed later for some reason. I don't recall.  
 24          We simply talked about it in terms of here  
 25 are the assets and in return we're getting a \$100

26           **1 million policy. Now, clearly the \$25 million**  
 2 component, you know, developed at some point. I just  
 3 don't recall spending a lot of time on it during the  
 4 original discussion.  
 5           Q Had Mr. Sevilla's instructions been to  
 6 transfer all the assets at the relevant funds?  
 7           A Yes, that was -- that's my recollection,  
 8 yes.  
 9           Q And in that instruction Mr. Sevilla wanted  
 10 all funds or all assets transferred regardless of the  
 11 value of those assets?  
 12          A That's right, yes.  
 13          Q Do you know, based on your conversation with  
 14 Mr. Sevilla, if UBS knew about this insurance policy?  
 15          A I can't say specifically about the policy  
 16 itself. It was my understanding -- you know, it's two  
 17 steps. The first is you have to reach the settlement  
 18 and then you have the payment where the policy comes  
 19 in.  
 20          I mean, I think during the conversations it  
 21 was very clear to us, or at least made very clear to  
 22 us, that UBS was actively involved in the negotiations  
 23 because at the time it was -- the only rotating item  
 24 was the bid and the ask. The difference between what  
 25 we were offering and what UBS was asking was material

27           **1 but narrowing. And so there was enough, I guess,**  
 2 support there for somebody to conclude that we were  
 3 near resolution and to effect it we would need this  
 4 policy.

5           **But your question was do I have knowledge of**  
 6 UBS being aware of the policy, no, I don't have  
 7 specific knowledge of that. But it was represented to  
 8 us that there were negotiations in which UBS was an  
 9 active participant.

10          Q And it was Mr. Sevilla that made  
 11 representations that UBS was an active participant at  
 12 this time?

13          A Yes.

14          MS. McLAUGHLIN: We can take Exhibit 1 down,  
 15 please. Could we please put Exhibit 2 up instead.

16          (Deposition Exhibit 2, Purchase Agreement  
 17 August 7, 2017, marked for identification.)

18          Q Okay. Exhibit 2 is a seven-page document,  
 19 it's entitled "Purchase Agreement," and it's dated as  
 20 of August 7th, 2017. Do you see Exhibit 2 on your  
 21 screen?

22          A Yes.

23          Q And this purchase agreement lists Sentinel  
 24 Reinsurance Limited as the purchaser. Do you see  
 25 that?

28           **1 A Yes.**

2           Q And it also lists three Highland entities as  
 3 the sellers: Highland CDO Opportunity Master Fund,  
 4 L.P., Highland CDO Holding Company and Highland  
 5 Special Opportunities Holding Company. Do you see  
 6 that?

7           A Yes.

8           Q Prior to preparing for this deposition, had  
 9 you seen this agreement before?

10          A I don't recall it. I don't recall it. No,  
 11 I don't recall. But, again, that doesn't mean somehow  
 12 maybe I got it sent to me by email. I don't recall  
 13 seeing this specifically.

14          MS. McLAUGHLIN: And if we could please turn  
 15 to the last two pages, page 6 and 7. Starting at page  
 16 6. Obviously you can't put both up.

17          Q This is a page titled "Schedule A" with a  
 18 list of assets. Mr. Stoops, you can still see this on  
 19 your screen?

20          A Yes.

21          Q The assets listed here are broken out by  
 22 different entities starting with Highland CDO  
 23 Opportunity Master Fund L.P., correct?

24          A Yes.

25          Q Do you have an understanding as to what the

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	29		31
1 third column is? It's titled "Traded Shares/Par."		1 <b>were talking about.</b>	
2 <b>A Yes, I do.</b>		2 Q Okay. And your understanding was that the	
3 Q And what do you understand that column to		3 assets would be transferred to pay UBS. Is that	
4 be?		4 correct?	
5 <b>A Well, so when you have -- when you have</b>		5 <b>In the sequence of events, the assets would</b>	
6 <b>securities such as stock, then you have shares, traded</b>		6 <b>be transferred to pay for a policy, a settlement</b>	
7 <b>shares. When you have bonds, you talk about it in</b>		7 <b>policy that would then pay UBS in cash if a settlement</b>	
8 <b>terms of par; that's effectively the face value. When</b>		8 <b>or legal judgment were reached. There was that last</b>	
9 <b>you have CLO equity, they typically -- it's not one</b>		9 <b>contingency in there.</b>	
10 <b>for one as you would a bond, but they typically use</b>		10 Q And do you know whose idea it was to	
11 <b>the same concept for CLO equity, the par concept for</b>		11 transfer the assets to Sentinel and then to UBS if a	
12 <b>CLO equity for reference, and that's what this is.</b>		12 settlement were reached?	
13 So "traded shares" refers to the number of		13 <b>A Meaning whose idea was it to take out the</b>	
14 shares held in your certificated interest in a		14 <b>policy? Is that what -- is that your question?</b>	
15 vehicle; "par" represents in the terms, context of		15 Q Yes. Thank you.	
16 bonds, the face value of original issuance, and for		16 <b>A Yeah, I don't know. That preceded me, and I</b>	
17 CLO equity effectively the same, face value of		17 <b>wasn't involved in those conversations.</b>	
18 original issuance of your interest in the vehicle.		18 Q Okay.	
19 Q Do you have an understanding as to who would		19 <b>A Meaning by the time I was sitting in that</b>	
20 have determined these numbers put into that column?		20 <b>conference room discussing it, the idea of the policy</b>	
21 Would that have been something your department put		21 <b>was well in motion at that point, and I don't know the</b>	
22 together or a different department?		22 <b>origins of it at all.</b>	
23 <b>A I can't say specifically, not having seen</b>		23 Q And you've mentioned that Mr. Sevilla,	
24 <b>this before. But let me say it was readily available</b>		24 yourself and Mr. Swadley discussed how to transfer the	
25 <b>on the intranet at Highland for anybody to use.</b>		25 assets or the mechanics of it being the baskets were	
	30		32
1 Q And the assets that are listed on this page,		1 all a different kind. Is that -- is that correct?	
2 do you recognize any of the assets listed here?		2 <b>A Well, to his credit, Rick probably wouldn't</b>	
3 <b>A Many, if not most or all, yes.</b>		3 <b>have been involved in the transfer of the assets.</b>	
4 Q Where do you recognize them from?		4 <b>That would have been primarily JP and me, JP Sevilla</b>	
5 <b>A Well, this Aberdeen, Southfork, those are</b>		5 <b>and me. Rick was more interested in the what happens</b>	
6 <b>all CLOs that Highland managed. Highland was the</b>		6 <b>next, the sort of tax implications. But, yes, we --</b>	
7 <b>advisor for these. The GSC, I don't recall that.</b>		7 <b>JP Sevilla and I discussed the how to effect the</b>	
8 <b>Greenbriar, Highland Financial Partners. Longstreet</b>		8 <b>transfer of each of the different groups of assets on</b>	
9 <b>was external. NexPoint is internal. PAM Cap is</b>		9 <b>the list.</b>	
10 <b>internal, CLO or CDO. So it's just kind of a mixed</b>		10 Q So in your understanding, how much money was	
11 <b>bag. And then others we sort of recognize just over</b>		11 to be transferred?	
12 <b>the years having to do the accounting for these</b>		12 <b>A Meaning the overall value of the assets?</b>	
13 <b>entities. These were the assets held by these</b>		13 Q Yes. Yes.	
14 <b>entities for a number of years. They didn't change,</b>		14 <b>A Yes. Yes.</b>	
15 <b>so you would kind of see them over and over again.</b>		15 Q Sorry. What was your understanding of the	
16 Q And are the assets listed here similar to		16 overall value of the assets to be transferred?	
17 the assets Mr. Sevilla was talking to you about in		17 <b>A So I think -- and that's why this one is a</b>	
18 that meeting in August 2017?		18 <b>little odd to me. I would have expected, quite</b>	
19 <b>A I can't say specifically they were the</b>		19 <b>frankly -- is this the -- is this the original format</b>	
20 <b>exact, but, yes, this is probably consistent with what</b>		20 <b>of the Schedule A? It wasn't changed in any way?</b>	
21 <b>I would have expected to be the subject of that</b>		21 Q I can't answer that. I have no idea.	
22 <b>conversation. This appears to be the listing -- as I</b>		22 <b>A Okay, fair enough. I would expect market</b>	
23 <b>said, I think we broke out a list of assets to kind of</b>		23 <b>value to be on there as well; price and market value</b>	
24 <b>walk through how they would be settled, and this</b>		24 <b>to be on there as well. And, you know, collectively,</b>	
25 <b>likely would have been consistent with what was -- we</b>		25 I've seen the number about 105 thrown around, 105	

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33     1 million, and so clearly you're talking about a policy  
 2 of 105 -- I mean, a transfer of assets worth 105  
 3 million versus a policy of a hundred million. There's  
 4 a slight difference there. And the way it was  
 5 explained to us was due to the illiquid nature of it,  
 6 of the assets, the overall asset pool and the time  
 7 required to liquidate it, there was some concern of  
 8 would we actually achieve the upper boundaries of the  
 9 potential settlement number. And in the interest of  
 10 time, this was the best solution.

11       Additionally, there would also be expenses  
 12 to be paid -- legal expenses, administrative expenses,  
 13 et cetera -- around this, and that these assets would  
 14 be used to pay whatever ancillary expenses, you know,  
 15 remained going forward. Because that was one of my  
 16 concerns was, you know -- one of my responsibilities  
 17 at HFP was from time to time if I was presented with a  
 18 bill to pay -- legal expenses, tax prep fees,  
 19 whatever -- I used, you know, whatever cash was in the  
 20 account to pay for it. And as represented to me, we  
 21 would be transferring all of the assets, how would I  
 22 pay expenses going forward in any capacity, you know,  
 23 in whatever they are, the nature.

24       And it was represented to me that Sentinel  
 25 would be paying those expenses going forward, and I

34     1 was like BDO -- BDO is an accounting firm -- tax prep  
 2 fees, yes, that would be paid by them. You know, they  
 3 had offshore governance, they had directors, the CDO  
 4 Holdco and HSC had offshore directors. Yes, that  
 5 would be paid by them.

6       So going forward I had no responsibilities  
 7 to pay any expenses out of HFP and because there won't  
 8 be any cash, yes, that's correct.

9       So that's kind of -- that was the -- getting  
 10 back to your question of what was my understanding of  
 11 the value of the assets, that was the justification  
 12 for the differential between the \$105 million fair  
 13 value of the assets versus the potential outlay the  
 14 insurance company would incur with respect to the  
 15 issuance of this policy.

16     Q   And I think you said it in there, but just  
 17 to make sure that we understand, in August 2017 you  
 18 understood that these transfers were for a market  
 19 value of approximately \$105 million. Is that correct?

20     A   That's generally my recollection, yes. I  
 21 don't remember the precise number, but it was in that  
 22 neighborhood, yes.

23     Q   Okay. And you also understand that \$105  
 24 million is greater than \$25 million. Is that right?

25     A   Yes.

35     1       Q   We didn't start beginning -- begin to  
 2 discuss some of the transfers themselves. Do you know  
 3 if any of the assets listed on page 6 of this  
 4 agreement were ever transferred to Sentinel?

5       A   It was my understanding -- are you limiting  
 6 the scope of your question to only page 6 or are you  
 7 also including page 7?

8       Q   I started with page 6 only because it's on  
 9 the screen. However --

10      A   Sure.

11      Q   -- you have a binder in front of you with  
 12 the document in it, and so we can do page 6 and page 7  
 13 at the same time.

14      A   It was my understanding that all assets on  
 15 both page 6 and 7 were to be transferred.

16      Q   Do you know if in fact all assets on pages 6  
 17 and 7 were transferred?

18      A   I've learned recently in just very recent  
 19 discussions, as early as today, that no, apparently  
 20 not all assets were transferred, which was news to me.

21      Q   But the goal was to transfer all assets,  
 22 right?

23      A   That's right. That's right. That's again  
 24 illustrated by my concern about how are we going to  
 25 pay expenses for these funds going forward if there

36     1       were no assets left, and, you know, that was, again,  
 2 we had, like, the two-hour conversation, that was part  
 3 of it; Sentinel will pay all expenses for the funds  
 4 going forward, okay.

5       Q   When this transaction was complete, your  
 6 concern was that there'd be no funds at any of the HFP  
 7 entities or the CDO entities. Is that correct?

8       A   That's correct, yes.

9       Q   So the assets then were pooled from those  
 10 entities collectively. Is that correct?

11      A   They ultimately would have been pooled at  
 12 Sentinel. They weren't pooled at Highland. We  
 13 wouldn't have commingled them at Highland. But  
 14 theoretically Sentinel pooled them and commingled  
 15 them.

16      Q   And there are several entities listed on  
 17 pages 6 and 7. We've got Highland CDO Opportunity  
 18 Master Fund, Highland CDO Opportunity Fund, Limited on  
 19 page 6. And then if we can go to page 7, it shows  
 20 several more: Highland CDO Holdings Company, Highland  
 21 Special Opportunities Holding Company, Highland  
 22 Financial Corp. and Highland Financial Partners.

23       So that's six total entities. Is that  
 24 correct?

25      A   That's what's listed here, agreed, yes.

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1    Q    But the purchase agreement itself, if you 2 look on page 1, was only entered into by three 3 Highland entities. Is that true?		1    Q    And who was Shawn Raver?	
4    A    I'm -- not being involved in the purchase 5 agreement, I -- I couldn't tell you ultimately who was 6 a party to it. I don't believe I was involved. I 7 don't recall seeing it.		2    A    So the tax department basically had two 3 functions. You had tax compliance, which is the 4 preparation of tax returns, and that was Rick 5 Swadley's sort of jurisdiction. It also had sort of a 6 tax research or positions team and much smaller, and 7 that was headed by Mark Patrick, a tax attorney, and 8 Shawn Raver. Shawn Raver basically rolled up to him. 9 You know, he was -- he was the -- he was in that 10 group; Shawn Raver was in that group and reported to 11 Mark Patrick.	
8    Q    If we could go to page 1, please. 9         The nice thing about these agreements is 10 that they give you some of the answers. 11    A    Sure.		12    I'm only sort of hesitant in one sense. 13 Shawn Raver, I don't think was an employee of 14 Highland. I think he was like a contractor, 1099, who 15 was there for like five years or something in that 16 capacity. So that's why I'm hesitant to describe it. 17 But technically he reported to Mark. He had a desk 18 there. But I don't think he was an employee of 19 Highland per se; I think he was an external 20 contractor.	
12    Q    So here up top in that first paragraph, this 13 agreement only lists those three entities: Highland 14 CDO Opportunity Master Fund, L.P., Highland CDO 15 Holding Company and Highland Special Opportunities 16 Holdings Company. Is that right -- 17    A    Yeah. That's right. 18    Q    -- three -- 19    A    Yes. That's right. 20    Q    And so is it correct that the entities of -- 21 excuse me, starting over. 22         Is it correct that the assets of all the CDO 23 Fund and HFP entities were put together under this 24 purchase agreement even if the entity was not a party 25 to the agreement?		21    Q    Okay. On page 3 here, on the bottom of page 22 3, do you see where it says, "The aggregate purchase 23 price"? This is in the last paragraph. "The 24 aggregate purchase price paid by Sentinel for the 25 Assets was 25 million"?	
	38		40
1    A    Yes, it appears assets from entities in the 2 HFP -- in the HFP complex were included in the 3 agreement, while the entities themselves were not 4 listed on page 1, yes, I agree. 5         MS. McLAUGHLIN: We can take Exhibit 2 down, 6 please. 7         (Deposition Exhibit 3, Email chain September 8 12, 2018, with attachment, marked for identification.) 9         Q    We'll briefly look at Exhibit 3. And 10 Exhibit 3 is a six-page document. It starts with an 11 email from Shawn Raver dated September 12th, 2018. 12 And if you look on page 2, it attaches a document 13 entitled -- or a memo entitled "Tax Consequences of 14 Sentinel Acquisition of HFP/CDO Opportunity Assets." 15         Do you see Exhibit 3 on the screen? 16    A    Yes. 17    Q    And before you began preparing for this 18 deposition, had you ever seen this memo before? 19    A    To my recollection, no, I don't recall 20 seeing it. But, again, if you've got a document 21 indicating something to the contrary, I would be happy 22 to look at it to see if it reminds me. But I don't 23 recall seeing this previously. 24    Q    Do you recall who Shawn Raver was? 25    A    Yes.		1    A    Yes. 2    Q    "The aggregate fair market value of the 3 assets on the date of the Transaction was 4 \$105,647,679." 5    A    Yes. 6    Q    And do you know how that full market value 7 was determined? 8    A    The 105 million? 9    Q    Yes. 10    A    So Highland had a separate valuation team 11 that was responsible for at least, on a monthly basis, 12 coming up with or determining the value of all assets, 13 quote/unquote, in the system, and so these assets were 14 in the system and so they would have derived a value 15 for them. So -- 16    Q    Were you involved? Sorry, I didn't mean to 17 cut you off. 18    A    No, I was not involved. 19    Q    Okay. On page 4 of this memo -- if we can 20 flip one more -- it mentions here, "The IRS may 21 attempt to characterize the transaction as a 'sham.' 22 The focus of this argument would be on the fact the 23 Seller Entities sold assets with a fair market value 24 of 105,647,679 for a purchase price of 25 million. 25 And this was done solely to fund the \$25 million	

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<p>41</p> <p>1 premium required by the Policy. The obvious question 2 would be why sell all the assets if all was required 3 was 25 million."</p> <p>4 Do you see those sentences in the bottom 5 paragraph?</p> <p><b>6 A I do. I do.</b></p> <p>7 Q Do you know if people thought this 8 transaction was a sham?</p> <p><b>9 A I don't know --</b></p> <p>10 MR. FEINSTEIN: Before you answer, please -- 11 it's Robert Feinstein again. I just want to note, 12 again, that the author of this memo is an attorney. I 13 understand he might have been an independent 14 contractor or whatever, but he was an attorney, and 15 I'm going to make the same observation again about not 16 asserting the privilege as to the memo and your 17 question, but thought it was appropriate, at least, to 18 note that this gentleman was an attorney. Thank you.</p> <p>19 Q Mr. Stoops, do you know if people thought 20 the transaction was a sham?</p> <p><b>21 A This is the first time I've seen it even 22 sort of discussed in that potential context.</b></p> <p><b>23 But I'll also note for the record that a 24 sham transaction is an IRS phrase, and so I don't know 25 that if you talk about it outside of the context of</b></p>	<p>43</p> <p>1 Q There's a few people listed on here. Katie 2 Irving is listed. Do you know -- do you know what 3 Katie Irving's role was?</p> <p><b>4 A I couldn't tell you specifically. She 5 was -- from my description, she was in the legal 6 department but was not a lawyer. I thought she came 7 from Big Four accounting, and we just sort of viewed 8 her as litigation support.</b></p> <p>9 Q And I'm going to ask you about several other 10 individuals, too.</p> <p><b>11 A Sure.</b></p> <p>12 Q If you know their title, that's great, but, 13 otherwise, just a general description of what you 14 understood their role to be is --</p> <p><b>15 A Sure.</b></p> <p>16 Q Katie Irving, do you know who she reported 17 to in the legal department? Or the legal services 18 department you might have said.</p> <p><b>19 A I can't say definitively, but it was my 20 understanding I think she reported to Scott Ellington 21 directly.</b></p> <p>22 Q And Carter Chism is also on this email. Do 23 you know what his role was?</p> <p><b>24 A He was -- I believe at the time his role was 25 director -- or title was director of operations.</b></p>
<p>42</p> <p><b>1 IRS discussions that many people would have used the 2 phrase "sham." But whatever -- no, I'm not aware of 3 any actual discussions around it. I don't recall any.</b></p> <p>4 Q Okay. Thank you.</p> <p>5 MS. McLAUGHLIN: We can take Exhibit 3 down, 6 please.</p> <p>7 Q We're going to turn to a few documents that 8 discuss some of the transfers in more detail. We'll 9 start with Exhibit 4.</p> <p>10 (Deposition Exhibit 4, Email chain August 11 11, 2017, HCMUBS000563 and 564, marked for 12 identification.)</p> <p>13 Q And Exhibit 4 is an email with the top email 14 dated Friday, August 11th, 2017 from David Willmore to 15 Carter Chism, Katie Irving, JP Sevilla and Isaac 16 Leventon, and then copying you and several other 17 people. Do you see Exhibit 4?</p> <p><b>18 A Yes.</b></p> <p>19 Q And do you recognize this email?</p> <p><b>20 A I don't recall it specifically, but I -- you 21 know, I don't recall it specifically, but, you know, 22 I'm -- I understand it.</b></p> <p>23 Q Any reason to doubt that you received this 24 email on August 11th?</p> <p><b>25 A No, no reason to doubt that.</b></p>	<p>44</p> <p>1 Q And what department did Mr. Chism work in, 2 if you know?</p> <p><b>3 A Settlement. He reported directly to me.</b></p> <p>4 Q Okay. And if we're looking -- well, we'll 5 start there's a few more names here. David Willmore, 6 do you know what his role was?</p> <p><b>7 A At the time senior manager for in fund 8 accounting. Translated, he did -- handled the books 9 and records for the hedge funds, and he was the group 10 leader, and he reported directly to me.</b></p> <p>11 Q I see you're catching on to these questions, 12 the second part that comes after.</p> <p>13 Who is Chris Dunn, if you know?</p> <p><b>14 A Chris Dunn was sort of a junior accountant 15 at the time in the fund accounting team, and he would 16 have reported directly to David Willmore.</b></p> <p>17 Q And that leaves three people left. I think 18 we've got JP Sevilla listed here?</p> <p><b>19 A In-house legal -- I'm sorry. Go ahead.</b></p> <p>20 Q Please. After you.</p> <p><b>21 A JP Sevilla, my understanding, in-house legal 22 counsel, a lawyer, reporting, it's my understanding, 23 to Scott Ellington.</b></p> <p>24 Q And did you have an understanding about 25 Isaac Leventon's role at the time?</p>

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1     **A Also in-house legal counsel, presumably  
2 assistant general counsel, reporting to Scott  
3 Ellington.**

4     Q And the last name I believe is Thomas  
5 Surgent. Do you understand what his role was?

6     **A Chief compliance officer for Highland, also  
7 reporting to Tom -- I mean to Scott Ellington.**

8     Q Was it --

9     **A He was also -- I'm sorry, I don't mean to  
10 cut you off but I need to modify it. I think he had  
11 two titles. He was maybe also assistant general  
12 counsel or something like that, and he had kind of a  
13 dual role, a split role. He was CCO, plus this sort  
14 of assistant general counsel or deputy. Maybe that  
15 was it. Maybe that was it. Deputy general counsel,  
16 something like that, something elevated higher than  
17 the assistant general counsel that Isaac had, but  
18 lower than Scott's title of, you know, whatever,  
19 general counsel or chief legal; yeah, I think general  
20 counsel.**

21     **So I think Scott -- I mean Thomas was deputy  
22 general counsel, something like that, and CCO.**

23     Q Thank you.

24     We'll start at the bottom email, which is  
25 the earliest in time, from Kate Irving to Carter

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1 room -- rephrase. That's the "why." The "what" is I  
2 seem to recall instructing Carter to reply to this  
3 email with these people on there so that everybody was  
4 aware of what we were being instructed to do.

5     **And you see Thomas Surgent, he represents  
6 the compliance group. You see Frank Waterhouse, he  
7 was my boss. And then obviously David and Chris  
8 because they would have been handling the cash  
9 transactions. And then you also see -- that's a good  
10 point. I don't recall why Isaac would have been  
11 added. Clearly, to some degree, he had some  
12 involvement. I don't recall what. But clearly, to  
13 some degree, he was added for some reason, presumably  
14 because he had some level of involvement. Maybe  
15 because it was HFP. I can only speculate on why Isaac  
16 was added.**

17     Q I think I heard you say that you had asked  
18 Mr. Chism to copy these people on the email. Is that  
19 right?

20     **A Correct.**

21     Q Why did you want this variety of people  
22 copied on the email?

23     **A Just the magnitude of it. Again, I wasn't  
24 familiar with this sort of policy. It involved  
25 legal -- outstanding legal matter, and it involved the**

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1 Chism. Do you see where Ms. Irving wrote, "Sentinel  
2 wiring instructions for cash arising from transaction  
3 are below"?

4     **A Yes.**

5     Q The transaction here is the one that you  
6 were made aware of in August 2017 in the conference  
7 room with Mr. Sevilla. Is that right?

8     **A Presumably, yes, it would have been in this  
9 context.**

10    Q And what allows you to make that  
11 presumption?

12    **A Well, it says on the subject line "Sentinel  
13 wiring info." It was around that time frame, and she  
14 says, "Sentinel wiring instructions from cash arising  
15 from transaction" -- "from transaction," you know, the  
16 transfer, "are below."**

17    Q And in the next email, Mr. Chism responds,  
18 and as he does, he copies in several additional people  
19 to the email. Do you recall why Thomas Surgent,  
20 yourself, Frank Waterhouse, David Willmore and Chris  
21 Dunn, Isaac Leventon were all added to this email?

22    **A I seem to recall it was on my instruction.**

23    Q I'm sorry, what do you mean by that, it was  
24 on your instruction?

25    **A Well, we had just sat in a conference**

1 transfer of these assets, and so it was let's just  
2 make sure everybody is aware of this. It was moving  
3 that quickly, right. And it was, hey, get started on  
4 this, we need to start making this happen, so let's  
5 just everybody know that this is what's going on.  
6 Sort of a fail-safe, if you will, just a backup, just  
7 so that everybody knows what's being asked of us.

8     **And as you can see, Carter used some very  
9 specific language to make it very clear.**

10    Q Mr. Chism in this email had written, "Please  
11 confirm this serves as instruction to wire cash from  
12 all HFP Funds and all CDO Funds to the account listed  
13 in the instructions below."

14    **A Um-hmm.**

15    Q Do you see the middle email there?

16    **A I do.**

17    Q And who was Mr. Chism asking for this  
18 confirmation from?

19    **A Presumably Katie, JP or Isaac, any  
20 combination of those three.**

21    Q He was asking for confirmation from the  
22 legal department. Is that right?

23    **A That's correct, yes.**

24    Q Looking at the top email, one more up,  
25 Mr. Willmore responded and said, "FYI, I've entered

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1    wires to move all of CDO Fund's cash to Sentinel." Do 2    you see that spot?		1    like, I can find it.	
3    A    I do.		2    Q    We're looking at Schedule A on page 6.	
4    Q    This indicated to you that Mr. Willmore had 5    completed the steps to move all cash assets from CDO 6    Funds to Sentinel, right?		3    A    This was the PSA?	
7    A    Not quite. So Highland had a proprietary 8    wire system where an accountant would go in and enter 9    the wire to go, and then that wire would then be 10   approved, and then those instructions would then go to 11   the bank. So think of this as, like, step one of 12   three or four. And all David is saying is, I've 13   entered the wires into our system.		4    Q    Yes, the PSA.	
14   Q    And do you recall who they would be approved 15   by when entered into that system?		5    A    If you'll give me a minute.	
16   A    I don't, I don't recall. It was over 7 17   million. I think at the time maybe only Frank had the 18   ability to approve wires that large. That's -- it 19   should be in the system. Anybody should be able to go 20   look at it. But I don't recall it specifically.		6    THE TECHNICIAN: Ms. McLaughlin, would you 7   like me to pull it up?	
21   Q    A wire over 7 million, though, was --		8    THE WITNESS: No, thank you. I'll be there 9   in 30 seconds, so...	
22   A    No, no, technically -- technically -- I 23   mixed my words. I think the threshold was 5 million. 24   So because this one was 7 million, I think that was 25   the threshold and Frank would have to go -- Frank		10   MR. THORNTON: I've written Exhibit 2 on the 11   back of the divider page.	
1    would have to be the one to approve it.	50	12   A    Okay. I've got it. I've got it. I've got 13   it in front of me.	
2    Q    And did Frank have to seek approval from 3    anyone else, if you recall?		14   Q    And on page 6 --	
4    A    I don't know. Frank would have done that on 5    his own.		15   A    It's the same numbers, yes.	
6    Q    In the next line here Mr. Willmore wrote 7    there were two wires, one for approximately 7.8 8    million and he lists the second number of 9    approximately 2.3 million?		16   Q    Sorry?	
10   A    Um-hmm.		17   A    I answered your -- but you need to put the 18   question on the record. So, I'm sorry, I cut you off. 19   Go ahead and finish your question.	
11   Q    Do you see that line?		20   Q    On page 6 do you see a transfer of a cash 21   amount for approximately \$7.8 million listed?	
12   A    I do.		22   A    I don't see a transfer. I see a listing of 23   a cash balance for that amount.	
13   Q    These two wires were pursuant to the 14   purchase agreement. Is that correct? As you now 15   understand, these two wires were pursuant to the 16   purchase agreement?		24   Q    Thank you. And the cash transfer -- let me 25   get the words right here with you. The cash amount	
17   A    Presumably, yes.	52	1    listed under Highland CDO Opportunity Master Fund is 2    roughly the same as what's listed in Mr. Willmore's 3    email in Exhibit 4?	
18   Q    I know you have a binder of exhibits there. 19   So in the binder you look at Exhibit 2.		4    A    Yes, agreed, roughly the same.	
20   A    Yeah, unfortunately, it's in a different 21   order. If you could help me reference it, I could 22   find it.		5    Q    40 cents?	
23   THE TECHNICIAN: Would you like me to pull 24   Exhibit 2 back up?		6    A    Right, agreed.	
25   A    Or if someone can just tell me what it looks		7    Q    The other number in Mr. Willmore's email, he 8    listed that 2.4 million, 2.3 million, approximate 9    number.	
		10   A    Um-hmm.	
		11   Q    Do you see a cash asset on Schedule A in 12   Exhibit 4 that matches that wire transfer?	
		13   A    Roughly. Immaterial difference, yes. 20 14   cents difference, but yes.	
		15   Q    And so looking at both of those, does this 16   confirm for you that the transfers of cash, or the 17   wires of cash that Mr. Willmore is referencing were 18   pursuant to the asset purchase agreement?	
		19   A    Yes, I think that's a very reasonable 20   conclusion, yes.	
		21   MS. McLAUGHLIN: We can take Exhibit 4 down 22   and put Exhibit 5 instead, please.	
		23   (Deposition Exhibit 5, Email chain August 24   11, 2017, HCMUBS000567 and 568, marked for 25   identification.)	

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1 Q And Exhibit 5 is another August 11th, 2017  
 2 email. This one, this time it's from you to Katie  
 3 Irving, JP Sevilla, Isaac Leventon and copying the  
 4 same set of other people who were listed on Exhibit 4.

5 Do you see Exhibit 5 on your screen as well?

6 A Yes.

7 Q And do you remember sending this email?

8 A Not specifically.

9 Q Any reason to doubt that you sent this  
 10 email?

11 A No.

12 Q The top email is you responding to David  
 13 Willmore and the wire transfers -- sorry, excuse me.  
 14 This top email is you responding to Mr. Chism's  
 15 request for confirmation of assets to be transferred  
 16 or wire transferred?

17 A Um-hmm.

18 Q You write here, "All cash has been sent."  
 19 Is that you confirming that all the cash from HFP and  
 20 CDO Fund entities had been sent to Sentinel?

21 A Yes, I think that's what it's confirming.

22 Q At this point, then, they've already been  
 23 approved in the internal --

24 A That's right. That's right.

25 Q And we looked at the two wires in

53

1 electronically.

2 Q And was this a reference to the -- to some  
 3 of the securities listed on Schedule A of the purchase  
 4 agreement?

5 A Yes.

6 Q And why were you working on it?

7 A Because the settlement instructions would  
 8 have been different; they would have been settled to a  
 9 different account.

10 Q And by working on DTC securities, you meant  
 11 working on getting them transferred to Sentinel. Is  
 12 that right?

13 A That's right. That's right.

14 Q And who directed you to work on this?

15 A Well, it would have been involved in the  
 16 original -- it would have been a part of the original  
 17 conversation with JP. So, in other words, part of  
 18 a -- material part of our conversation, I recall we  
 19 got a list similar to this and we went through and  
 20 we're like, okay, these are physicals, these are DTC,  
 21 this is just cash. And so we were kind of bucketing  
 22 them.

23 And you're seeing on your screen here the  
 24 different buckets. Cash is pretty easy; we just  
 25 covered that. DTC would have been -- we would have

54 1 Mr. Willmore's email already, but it seems here that  
 2 you're referencing additional cash wires as well. Is  
 3 that right?

4 A Yes.

5 Q Do you have a general sense of what other  
 6 cash wires had been executed?

7 A Going back to your Schedule A, it would be  
 8 in Exhibit 6, I think it would be the cash balances  
 9 listed for the HFP entities.

10 Q Are you looking at Exhibit 2, I think, the  
 11 asset purchase agreement? You mentioned Exhibit 6 --

12 A I see schedule -- I see Schedule A at the  
 13 top. It's the list of assets.

14 Q Oh, got it. Schedule A of Exhibit 2.

15 You're looking at the HFP entities on page 7?

16 A Yes. Yes.

17 Q You also mention in your email working on  
 18 DTC securities?

19 A Correct.

20 Q What were DTC securities?

21 A Depository Trust Company. It's basically  
 22 electronic transfers. So, you know, any sort of  
 23 publicly traded securities, traded DTC. So you can go  
 24 in and just flip them from one DTC account to another.  
 25 So think of just publicly traded traded

55

1 sent instructions to the brokers and just changed them  
 2 from one DTC account to another, and then what was  
 3 left would be the physical, the investments that are  
 4 in sort of what we call physical form.

5 And so this is just a way of saying we've  
 6 covered one grouping, we're working on the second  
 7 grouping, and for the third grouping we're still  
 8 waiting for legal to provide us with how you want to  
 9 do this, where do you want us to deliver them. We  
 10 would have to instruct -- we would have to instruct  
 11 our custodian to deliver physicals to another  
 12 custodian.

13 Q And do you know if legal did provide those  
 14 delivery instructions?

15 A Presumably. I can't recall specifically who  
 16 or when or what they were, but presumably, yes.

17 Q Do you recall who in legal would have given  
 18 that instruction?

19 A I -- I can't say definitively. I can  
 20 only -- I can only speculate.

21 Q Well, it's been a number of years, so --

22 A It has been.

23 Q -- it's understandable. What would you have  
 24 done once you had the delivery instructions?

25 A For DTC or physicals?

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1 Q For the physicals.  
 2 A Yeah, so realistically this also would have  
 3 been covered by Carter's team as well. This was kind  
 4 of standard. You know, Highland was a CLO manager who  
 5 both managed CLOs but also purchased them. And it  
 6 wasn't uncommon for certain CLO interests, especially  
 7 equities, to be -- the certificated interest to be in  
 8 the form of physical securities.

9 And so if you were sort of breaking it up or  
 10 selling them whole or partial, you would have to  
 11 inform the custodian bank holding them that we want  
 12 them transferred in the name of this entity to this  
 13 new custodian. And so they would have to  
 14 re-certificate the interest in the new beneficiary's  
 15 name and then transfer the physicals to that custodial  
 16 bank.

17 Q And did --

18 A So, in other words, simply put, cash could  
 19 go in an hour or two. DTC securities could go in a  
 20 couple of hours. Physicals likely would have taken  
 21 one to two to three weeks to get them all covered.

22 Q And you knew to transfer the physicals  
 23 because of your conversation with Mr. Sevilla as well.  
 24 Is that right?

25 A That's right. That's right.

1 Q I think you had mentioned earlier that there  
 2 was 105 million market value of the assets and they  
 3 needed to be discounted for being illiquid. Was that  
 4 your understanding?

5 A That was the explanation provided to me.

6 Q Is cash a liquid asset?

7 A Let me make sure I heard you correctly. Are  
 8 you asking is cash "a liquid" or are you saying is  
 9 cash "illiquid"?

10 Q Well, the former. To make it very clear,  
 11 would cash be a liquid or --

12 A Let me describe it. Cash is considered very  
 13 liquid. It's the most liquid form of asset you can  
 14 have, basically.

15 Q And so on Schedule A in Exhibit 2, when  
 16 there's a cash transfer of approximately \$7.8 million,  
 17 would that need to be discounted for being illiquid?

18 A No.

19 Q And the cash transfer of approximately \$2.3  
 20 million, would that need to be discounted for being  
 21 illiquid?

22 A Presumably, no. No.

23 Q And the same is true for any cash assets  
 24 listed on page 7 of Schedule A, they would not need to  
 25 be discounted for being illiquid. Is that correct?

57

1 A That's correct.

2 MS. McLAUGHLIN: We can take Exhibit 5 down,  
 3 please.

4 Q If the goal is to make the fund's assets  
 5 liquid, why did they need to transfer cash to  
 6 Sentinel?

7 A Any answer I give you would be purely  
 8 speculation. I wasn't involved in any component of  
 9 the negotiations or discussions around the decision of  
 10 that. I could speculate if you want me to, but it  
 11 would be entirely speculation.

12 MR. THORNTON: Let's don't speculate.

13 Q You can't think of a good reason why you  
 14 would need to transfer cash to Sentinel if the goal  
 15 was to make the funds more liquid, can you?

16 A The good reason would be as a partial  
 17 payment on the premium. But obviously there's a  
 18 deficit in there, a difference in there, between the  
 19 apparent 25 million or hundred million, whichever  
 20 number you want to focus on, and the cash balance.

21 And I say that because honestly I don't  
 22 recall at the time the significance of that 25  
 23 million. We were just sort of viewing it as 105 for a  
 24 hundred. But, you know, I get the math now clearly.  
 25 And the differential between whatever the total

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1 cash -- aggregate cash value is in that premium was  
 2 presumably going to be made up by the perceived  
 3 liquidation value of the remaining assets.

4 Q Is it correct, then, if I'm understanding  
 5 this right, everything listed on Schedule A that is  
 6 not cash value needed to make up the differential  
 7 between the value of the cash and the \$25 million?

8 A That's me speculating, that's entirely me  
 9 speculating. As represented to me, there were going  
 10 to be expenses to be paid. So maybe a part of the  
 11 understanding was they also needed excess cash to pay,  
 12 you know, whatever fees or expenses they were  
 13 expecting to incur. I just simply don't know.

14 I can tell you what was represented to me,  
 15 which was all of this is with respect to the payment  
 16 and application of that policy, and we didn't really  
 17 get into a -- we didn't really get into extensively,  
 18 well, how are you coming up with the net present value  
 19 of that or represent this or -- that was -- that was  
 20 an obligation of the dealmakers, you know, the people  
 21 responsible for negotiating the principal terms of the  
 22 agreement.

23 Q And so you were just accepting the  
 24 information that was presented to you by Mr. Sevilla  
 25 in that August meeting. Is that right?

60

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1 <b>A That's right, with some follow-up questions</b>		1 a while, but under two conditions; you have a legal	
2 on -- on understanding it better and clarification.		2 court order absolving, you know, absolving the entity	
3 But, yes, I was acting on the legal instruction from		3 of the liability, or you have a settlement agreement	
4 counsel. I was acting on instructions from legal		4 between the two parties in which the person to which	
5 counsel.		5 the liability is owed releases, you know, the other	
6     Q And the instructions from legal counsel was		6 party for the liability. Only in those two conditions	
7 to transfer all of the assets of CDO Funds and HFP		7 do you do that, do you remove the liability.	
8 Funds to Sentinel so they would be left with no		8     So given the fact that we didn't have a	
9 assets?		9 settlement agreement that had been signed, we couldn't	
10 <b>A Yes.</b>		10 at the time remove the liability. So, in other words,	
11    Q Were the HFP Funds and CDO Funds to be left		11 the different steps of the transaction governed and	
12 with liability still?		12 influenced the accounting results being presented.	
13 <b>A As I understood it, the only remaining</b>		13    Q And a decision to move approximately \$105	
14 liability would be that owed to UBS. All operational		14 million in value would have been a decision that	
15 liabilities, i.e., fees and expenses for tax prep,		15 involved everyone throughout Highland Capital at the	
16 corporate governance, would be paid by Sentinel. So		16 highest levels. Is that correct?	
17 in theory the only thing left on the books would be --		17 <b>A Presumably, yes. Given the magnitude of the</b>	
18 would be the obligation owed to UBS.		18 decision, the implications and the size of the	
19    Q Is it typical in a transaction to have all		19 transaction, yes.	
20 the liability kept on an entity's books or the		20    Q And the \$105 million value is the value	
21 liability to UBS kept on an entity's books but all the		21 presented to you by Mr. Sevilla. Is that how you got	
22 assets transferred away?		22 that number?	
23 <b>A Please bear in mind this was my first</b>		23 <b>A I don't recall specifically. I don't recall</b>	
24 experience with a transaction like this, so I'm		24 specifically. It may have been -- it may have been	
25 certainly in no position to tell you what's typical in		25 we -- we pulled it up out of the system. Like I said,	
	62		64
1 these types of transactions.		1 the assets owned by each of the entities was readily	
2 <b>It's a -- it's a reasonable question and</b>		2 available to anybody and everybody at Highland, and so	
3 one -- that's where we spent more of our time also		3 we may have just pulled it up right then and there	
4 exploring, trying to understand it. We were trying to		4 on-screen or had someone print it out and give it to	
5 understand would I have a policy on my books. In		5 us and we just looked at it. I don't recall that	
6 other words, do I transfer these assets and I get a		6 specifically but...	
7 \$50 million policy, you know, the payout, \$50 million,		7     Q You don't have any idea, then, if normal	
8 I get a receivable.		8 processes were followed to ensure an accurate	
9       And that's when it was explained to us:		9 valuation, you wouldn't have that information?	
10 you'll never see that cash at HFP. Well, why not?		10 <b>A My assumption would be that the valuation</b>	
11 Well, the way it's going to work operationally is the		11 would have followed the normal process. So if that	
12 cash will go from Sentinel directly to UBS after an		12 was the value assigned to them and I was asked to, you	
13 agreement has been, you know, executed. So, in other		13 know, testify, I would say, yes, I'm guessing they	
14 words, it won't go to HFP and HFP paid them. It will		14 followed the normal valuation process. I don't have	
15 be assumed by that.		15 any reason to believe they didn't follow the normal	
16       So even if you had an asset -- even if you		16 valuation process. Not to my recollection, no.	
17 had an asset like a receivable, you effectively wind		17    Q But it's just a guess, correct? You're not	
18 up impairing it because you'll never realize that		18 positive --	
19 asset, and so the net result is the same. In other		19 <b>A Yes.</b>	
20 words, because you're never going to see that cash,		20    Q -- that they did follow --	
21 you wouldn't show a \$50 million receivable, because		21       (Simultaneously speaking.)	
22 you're never going to see it. So the net result is no		22 <b>A Yes, I -- it is speculation.</b>	
23 assets and just the liability.		23    Q And would the highest levels of management	
24       And the reason for that is under GAAP you		24 at Highland include Mr. Dondero?	
25 can only remove a liability I think under -- it's been		25 <b>A I can't say definitively. I was never in --</b>	

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65  
 1 that I recall, in a discussion with Jim in which I  
 2 heard his approval or whatever. But, presumably, yes,  
 3 it would include him. You know, the fact that he  
 4 signed several of the documents, at some point  
 5 presumably someone had to explain it to him.

6 Q And you mentioned that Mr. Dondero signed  
 7 several of the documents. If we look at the insurance  
 8 policy at Exhibit 1, that is the 19-page document, and  
 9 I believe the signatures are on the last page, page  
 10 19.

11 A Right.

12 THE TECHNICIAN: Would you like me to pull  
 13 that up, Ms. McLaughlin?

14 MS. McLAUGHLIN: No, thank you.

15 Q So you see where Jim Dondero signed on  
 16 behalf --

17 A Yes.

18 Q -- of the three entities on the insurance  
 19 policy?

20 A Yes.

21 Q And we've already looked at, I believe,  
 22 Exhibit 2, the purchase agreement to see that it was  
 23 Jim Dondero who signed on behalf of all six Highland  
 24 entities there as well?

25 A Yes.

67  
 1 who held the ownership interest in Sentinel?

2 A No.

3 Q Have you recently come to learn who held --  
 4 who holds the ownership interest in Sentinel?

5 A I recently, i.e., Saturday of -- this past  
 6 Saturday read in some sort of filing a suggestion that  
 7 it appears Dondero and Ellington through a series of  
 8 offshore complex, offshore entities, owns a 70/30  
 9 split on that. Anyways, that's, I think -- I'm  
 10 summarizing what it said in the finding -- or in the  
 11 filing.

12 Q Were you surprised to read that Dondero and  
 13 Ellington may hold 100 percent of the Sentinel  
 14 ownership --

15 A Yes. Yes.

16 Q What was surprising about that to you?

17 A I guess kind of generally through my normal  
 18 operations, you sort of learned who owned what or what  
 19 we were doing, and that never really surfaced for me  
 20 that I recall, where it was, hey, this is their  
 21 entity, as suggested in that filing I read on  
 22 Saturday. So that was -- it seemed to be new  
 23 information to me.

24 And then obviously -- obviously then  
 25 connecting it back to this transaction in the context

66  
 1 Q Do you know if Mr. Dondero typically signed  
 2 things without reading them or understanding them?  
 3 A I didn't witness him signing everything,  
 4 but, no, for the most part he was pretty particular  
 5 about going through things, especially of this  
 6 magnitude. There might be kind of routine matters  
 7 that he might not have. But of items of particular  
 8 importance, he, in my opinion, would have been pretty  
 9 specific and particular about the execution of those  
 10 agreements.

11 Q And what are you basing your opinion on?  
 12 A I just -- involvement in other matters of a  
 13 material nature. In other words, I have experience  
 14 with him with other matters in which we would  
 15 routinely go down to his conference room and sit in  
 16 his conference room and discuss it in detail for some  
 17 time.

18 Q Mr. Dondero was also the portfolio manager  
 19 of many of the Highland funds. Is that correct?

20 A That's correct.

21 Q And as a portfolio manager, would it have  
 22 been typical to be involved in the decision making to  
 23 transfer all of the assets out of a fund?

24 A That would be my expectation.

25 Q At the time in August 2017, were you aware

68  
 1 of, you know, the subpoena I received and what I was  
 2 reading, that's when it really sort of became a little  
 3 bit more sort of surprising, if you will.

4 Q You mentioned earlier that all trades or  
 5 sales have to go into a system for approval?

6 A The OMS, order management system.

7 Q And what details about a transaction would  
 8 go into the order management system for a related  
 9 party, if you know?

10 A Well, it's been a while, but it wouldn't  
 11 necessarily per se be, hey, this is what we're in  
 12 because it's a related party. The way it would work  
 13 is you have the -- can you still see me okay?

14 You have the same trade details in which,  
 15 like, you have buyers, seller, seller, quantity,  
 16 price, trade date, et cetera, and then that  
 17 constituted an order. And so that system was  
 18 monitored by compliance in which they had the ability  
 19 to tag affiliated entities. And so to the extent  
 20 there was an affiliated entity involved, it should  
 21 have raised a red flag that only compliance could have  
 22 cleared.

23 Q And that was a Highland policy that  
 24 compliance would have had to clear the flag if one was  
 25 raised?

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1   A That's right, and only compliance. Nobody  
 2 in my group or anybody outside of compliance, to my  
 3 understanding, had the ability to clear those.

4   Q And a transaction where Dondoro and  
 5 Ellington owned 100 percent of the interests in an  
 6 entity receiving assets, that would have had to be  
 7 flagged in this OMS system, to be clear?

8   A Well, that would have been dependent on if  
 9 at the time it went through the OMS Sentinel was known  
 10 to be an affiliate and someone had already flagged it  
 11 as an affiliate. If no one had flagged it at the  
 12 time, it would have just moved through the normal way.

13   Q And would you have had any reason to know if  
 14 a transaction was flagged to be a related party  
 15 transaction, would that have been --

16   A It wouldn't have necessarily been a big  
 17 flashing light on my screen, but presumably it would  
 18 have impacted Carter's team, settlement, and maybe  
 19 Carter would have mentioned it to me. But if it got  
 20 cleared very quickly, meaning someone from compliance  
 21 cleared it -- in other words, it would have only come  
 22 up in the context of if we weren't able to settle any  
 23 of the transactions we were trying to. Carter likely  
 24 would have come to me and said, hey, we're sitting on  
 25 our hands because we're waiting for compliance;

1 apparently, this is an affiliate, and we're waiting  
 2 for compliance to clear it or instruct otherwise.  
 3 I don't recall any of that happening.

4   Q And that could be because compliance cleared  
 5 it very quickly and there was no reason for you to  
 6 know?

7   A Or it wasn't flagged as an affiliate at the  
 8 time the transaction went through, or, I mean, there's  
 9 a presumption on my part that someone entered it in  
 10 the OMS. The first step in this would be let's nail  
 11 down was it entered in the OMS. I just -- I simply  
 12 don't recall.

13   Trades were entered in the OMS outside of my  
 14 group. They would have been entered by the front  
 15 office, the PM, somebody, and then that's how they hit  
 16 our screens.

17   But just to reiterate, if it wasn't in the  
 18 OMS, clearly it wouldn't have tripped a flag, or if  
 19 the counterparty, Sentinel, hadn't been flagged as an  
 20 affiliate, it wouldn't have tripped it, and it would  
 21 have just sailed through, or someone could have  
 22 cleared it very quickly and it sailed through.

23   Q Okay. And only compliance could have  
 24 cleared it you said?

25   A That's my understanding, that's right.

1   That's right.

2           MS. McLAUGHLIN: We'll take a look at  
 3 Exhibit 6, please.  
 4           (Deposition Exhibit 6, Email chain August  
 5 11, 2017, HCMUBS000642 through 644, marked for  
 6 identification.)

7   Q Mr. Stoops, are you aware of any assets that  
 8 were transferred to Sentinel other than the ones we've  
 9 been looking at on Schedule A of the purchase  
 10 agreement?

11   A I'm -- it's two -- it seems potentially two  
 12 different questions, so I'm trying to make sure I  
 13 answer both. I'm not aware of any other assets on  
 14 that Schedule A, but I can't -- I don't know for sure  
 15 which one of these these pertain to. I'd have to  
 16 cross-index it. But I don't know specifically which  
 17 ones these pertain to.

18   Q What do you mean by these ones?

19   A Whatever you're showing me -- you're showing  
 20 me a DTC or you're showing me application account  
 21 which needed to transfer the shares. It appears to be  
 22 setting up a DST account for some assets and I just --  
 23 I don't know which assets.

24   Q Aside from this document, ignoring the  
 25 Exhibit 6 on the screen --

1   A Okay.

2   Q -- aside from anything in Exhibit 6, are you  
 3 just generally aware of any assets that were  
 4 transferred to Sentinel other than those listed on  
 5 Schedule A?

6   A No, no. It was my understanding that that  
 7 was to be the full list, that that was it.

8   Q And could there have been other assets that  
 9 were transferred that you were unaware of at the time?

10   A Sure. I guess, yeah. I guess so.

11   Q Now looking at the screen -- I apologize I  
 12 put it up too soon, but here on the screen we've got  
 13 Exhibit 6, which is an email chain dated August 11th,  
 14 2017 from Samantha Bennetzen. Do you see Exhibit 6?

15   A I do see Exhibit 6.

16   Q And you were not on this email, so you may  
 17 very well not be aware of this email or what's  
 18 included. But just to look at some of the content,  
 19 we're looking at this top email where it lists an  
 20 application for the NRESF account. Do you know what  
 21 the "NRESF account" would mean?

22   A So it appears they're looking to -- if it's  
 23 DST, I think DST was where we maintained our closed-in  
 24 fund shares, and it appears someone is asking to set  
 25 up a new account for the NexPoint Real Estate

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1   Strategies Fund to transfer those shares into it once 2   this new application has been set up. But it isn't -- 3   it isn't apparent in whose name this new account 4   should be transferred, you know, the beneficiary 5   account name.		1   it NRES, is that how you pronounce it? 2   A <b>That's how we refer to it, sure, NRES.</b> 3   Q   The NexPoint Real Estate Strat - Z -- 4   A <b>Yes.</b> 5   Q   -- NRES asset that is listed on Schedule A, 6   what entity is that asset listed under?	
6   Q   Okay. If we scroll down the document. 7   Thank you. 8       Just for context, this chain started on 9   August 11th. And we'll go up a little bit higher. 10   That's good, thank you. 11      Here Katie Irving writes to Brian Fuentes, 12   and she is talking about "appreciate your assistance 13   in getting Sentinel set up with DST account to take 14   transfer of CDO Fund NRSZX shares." Do you see that, 15   that sentence?		7   A <b>Highland CDO Opportunity Master Fund.</b> 8   Q   On Exhibit 6, though, this email is 9   discussing transferring shares from Highland CDO 10   Opportunity Fund Limited. That would be a different 11   entity, correct? 12   A <b>I -- I -- I can't say for sure. To me I 13   think this is just typed incorrectly. But I guess, 14   yeah, presumably it could be a different one.</b>	
16   A <b>Yes.</b> 17   Q   And in response to Katie -- if we can scroll 18   slightly up -- in response to Katie, Katie then sends 19   a follow-up, "as discussed, wiring instructions for 20   cash distributions are below." 21   A <b>Um-hmm.</b> 22   Q   And lists a Sentinel Reinsurance Limited 23   account. Do you see that? 24   A <b>I do.</b> 25   Q   Is it possible that this is the account		15   Q   Because on Schedule A there are no shares or 16   securities listed under Highland CDO Opportunity Fund 17   Limited. Is that right? 18   A <b>That's right. That's right.</b> 19      MS. McLAUGHLIN: Okay. We can take Exhibit 20   6 down, please. 21      And, Mr. Stoops, unless you're really hoping 22   to stay on the record a little bit longer, we propose 23   that we just take a short break so that we can go 24   through some notes and come back and conclude 25   afterwards. So does five minutes work?	
1   she's still talking about or that's still being 2   discussed at the top of this email chain? 3   A <b>Yes.</b> 4   Q   And can we go back to the top of the email 5   chain. Based on the rest of this document, does it 6   look like these shares that are being transferred are 7   being sent to Sentinel? Is that a fair conclusion? 8   A <b>It's a fair conclusion.</b> 9   Q   And we have account number and then a bunch 10   of numbers listed for Highland CDO Opportunity Fund 11   Limited. Do you see on Schedule A of the purchase 12   agreement any shares transferred from Highland CDO 13   Opportunity Fund Limited? 14   A <b>Yeah, it says NexPoint C Com.</b> 15   Q   That's for Highland CDO Opportunity Fund 16   Limited? 17   A <b>Right, right, right. At the top, but I'm 18   looking at the share names, the description. Yes, I 19   see Highland CDO Opportunity Fund at the top, but I'm 20   now trying to match it up with the shares they might 21   have been trying to transfer, and all I see 22   potentially one -- no. Here. Yes. Okay. No, here 23   it is. Yes. Okay, I see it. NRES, sure, NRESZ, 24   sure, it's on here. 25   Q   And where you're looking on Schedule A, is</b>	74	1   THE WITNESS: Fine with me. 2   THE VIDEOGRAPHER: We are going off the 3   record. The time is 12 o'clock p.m. 4   (Recess 12:00 p.m. - 12:18 p.m.) 5   THE VIDEOGRAPHER: We are back on the 6   record. The time is 12:18 p.m. 7   BY MS. McLAUGHLIN: 8   Q   Mr. Stoops, I think earlier today you were 9   saying how you were not aware in August 2017 whether 10   Sentinel was an affiliated entity with Highland 11   Capital. Is that correct? 12   A <b>Yes.</b> 13   MS. McLAUGHLIN: If we could, please, put up 14   a new exhibit. I believe it's marked as Exhibit 7. 15   (Deposition Exhibit 7, Email chain December 16   1, 2017, marked for identification.) 17   Q   Yes. Exhibit 7 is an email chain with the 18   top email dated December 1st, 2017 from Scott 19   Ellington. Do you see Exhibit 7 on your screen, 20   Mr. Stoops? 21   A <b>Yes, I do.</b> 22   Q   And we can scroll down a little bit. 23   You're not on the first or second email, but 24   you are on the third email on this page from Taylor 25   Colbert.	76

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1       Can we scroll back up, please. Right there  
2 is good. Thank you.

3       Mr. Stoops, what role did Taylor Colbert  
4 have, if you know?

5       **A So Taylor was a financial analyst, financial**  
6 **fund accountant, same thing, just under different**  
7 **reference, but same thing, a fund accountant who**  
8 **reported directly to David Willmore, who reported**  
9 **directly to me. And in his capacity he handled the**  
10 **sort of monthly financial reporting obligations for**  
11 **certain hedge funds.**

12      Q   And the subject of this email was a Multi  
13 Strat Cash Projection, correct?

14      **A Yes.**

15      Q   And Taylor writes here, "As discussed,  
16 please see the updated file with Sentinel being  
17 presented as an affiliated investor." Did I read that  
18 right?

19      **A Yes, you did.**

20      Q   And you understand Taylor to be saying  
21 Sentinel and Multi Strat were affiliates. Is that  
22 correct?

23      **A Yes, that appears what he's saying here.**

24      Q   And do you have any understanding as to why  
25 Taylor was updating the file?

1       describes to you in August 2017, all the assets from  
2 HFP and its subsidiaries were transferred to Sentinel  
3 regardless which entity they were held at. Is that  
4 right?

5       **A Yes, that's my recollection, yes.**

6       Q   And so is the same thing true for CDO Funds  
7 affiliates as well, assets were transferred from CDO  
8 Fund -- the CDO Fund family regardless of which entity  
9 they were held at?

10      **A Yes, that's my recollection, that -- it's my**  
11 **recollection those were the instructions, yes, and the**  
12 **intent.**

13      Q   And we mentioned a few times the UBS  
14 litigation that's been ongoing since about 2019. I  
15 believe you -- excuse me. I'll restart.

16      Were you aware throughout the UBS litigation  
17 that UBS had been making information requests to  
18 Highland for financial information of HFP and its  
19 subsidiaries?

20      **A So, forgive me, but just to be clear, I**  
21 **think you said ongoing since 2019. I'm thinking you**  
22 **meant 2009, agreed?**

23      Q   Agreed.

24      **A Okay. Okay.**

25      Q   Since 2009 --

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1       **A I don't specifically recall. I can sort of**  
2 **guess by the flow of the email, but I don't**  
3 **specifically recall.**

4       Q   And after this update, Sentinel was listed  
5 in the cash projection as an affiliated investor,  
6 correct?

7       **A Yes.**

8       MS. McLAUGHLIN: We can take Exhibit 7 down,  
9 please.

10      Q   Just a few more questions about the  
11 conversation you had with Mr. Sevilla back in August  
12 2017. After your initial conversation, did you have  
13 any follow-up discussions with Mr. Sevilla about what  
14 he was asking you to do?

15      **A I don't recall anything specific. But I do**  
16 **know there were follow-up conversations, and it was**  
17 **probably more about updates or clarification.**

18      Q   Updates --

19      **A For example -- for example, in one of my**  
20 **emails we brought up as an exhibit earlier, I said**  
21 **we're still waiting on delivery instructions for**  
22 **physicals. So it would have been something along**  
23 **those lines, we need to anticipate getting those to**  
24 **us, or something along those lines.**

25      Q   And under the transaction that Mr. Sevilla

1       (Simultaneously speaking.)

2       **A Yes, yes, yes.**

3       Q   -- since 2009 --

4       **A Sure.**

5       Q   -- have you been aware of financial  
6 information requests from UBS?

7       **A Yes. There were from time to time requests**  
8 **for certain documents from UBS related to that matter.**

9       Q   And were you ever entrusted with the  
10 responsibility of responding to those requests?

11      **A As in sending them to UBS?**

12      Q   Collecting them or sending them. Just at  
13 Highland, was it part of your role to have  
14 responsibility for --

15      **A It sort of varied. From time to time I**  
16 **might get involved, but then in others not at all. It**  
17 **just sort of really varied on what the legal team had**  
18 **available to it at the time. So it sort of --**

19      Q   And your --

20      **A Go ahead.**

21      Q   Oh. And your responsibilities with UBS's  
22 document requests were limited to helping the legal  
23 team find certain documents. Is that correct?

24      **A Generally, yes. Yes.**

25      Q   You were not the person responsible for

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<p>81</p> <p>1 final collection or production of any documents to 2 UBS. Is that correct?</p> <p><b>3 A No. I would have turned everything over to 4 our legal team.</b></p> <p>5 Q And do you also recall that Isaac Leventon 6 was the person on the legal team that had the ultimate 7 responsibility for productions at that time?</p> <p><b>8 A That was my understanding, yes.</b></p> <p>9 Q All right. Mr. Stoops, we have, I think, 10 four questions here or five questions here left for 11 you.</p> <p>12 You're testifying today pursuant to a 13 subpoena. Is that correct?</p> <p><b>14 A Yes.</b></p> <p>15 Q Would you have shown up without a subpoena?</p> <p><b>16 A I don't know. I hadn't thought about it. I 17 couldn't say for sure.</b></p> <p>18 Q And you're represented by counsel today, 19 right?</p> <p><b>20 A Yes.</b></p> <p>21 Q Who is paying for your counsel?</p> <p><b>22 A Me.</b></p> <p>23 Q Did anyone else offer to pay or reimburse 24 your legal fees?</p> <p><b>25 A No.</b></p>	<p>83</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 I, MONIQUE VOUTHOURIS, a Notary Public and 4 Certified Court Reporter of the State of New Jersey, 5 License No. X100834, do hereby certify that prior to 6 the commencement of the examination CLIFFORD E. 7 STOOPS, II, was duly sworn by me to testify the truth, 8 the whole truth, and nothing but the truth.</p> <p>9</p> <p>10 I DO FURTHER CERTIFY that the foregoing is a true 11 and accurate transcript of the testimony as taken 12 stenographically by and before me at the time, place, 13 and on the date hereinbefore set forth.</p> <p>14</p> <p>15 I DO FURTHER CERTIFY that I am neither a relative 16 nor employee nor attorney nor counsel of any of the 17 parties to this action, and that I am neither a 18 relative nor employee of such attorney or counsel, and 19 that I am not financially interested in the action.</p> <p>20 <i>MoniqueVouthouris</i> </p> <p>21 _____</p> <p>22 Notary Public of the State of New Jersey 23 My Commission expires April 8, 2024</p> <p>24</p> <p>25 Dated: May 5, 2021</p>
<p>82</p> <p>1 Q You also received a subpoena to produce 2 documents, right?</p> <p><b>3 A Yes. Yes.</b></p> <p>4 Q And you don't have any documents to produce 5 to UBS in response to that subpoena?</p> <p><b>6 A Based on my search, no, I don't believe I 7 do.</b></p> <p>8 Q And you conducted a search?</p> <p><b>9 A I did.</b></p> <p>10 MR. McLAUGHLIN: Well, with that, 11 Mr. Stoops, thank you very much. We appreciate your 12 time, and that's all we have today.</p> <p>13 THE WITNESS: Thank you very much.</p> <p>14 MR. THORNTON: Thank you.</p> <p>15 MS. McLAUGHLIN: Bob, you didn't have 16 questions, did you?</p> <p>17 MR. THORNTON: No, no questions.</p> <p>18 MS. McLAUGHLIN: I believe we can go off the 19 record, then.</p> <p>20 THE VIDEOGRAPHER: We are going off the 21 record. The time is 12:27 p.m.</p> <p>22 (Time noted: 12:27 p.m.)</p> <p>23</p> <p>24 ****</p> <p>25</p>	